

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 849 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

THE STATE OF GUJARAT & 1

Versus

KM HATI

Appearance:

MR KAMAL M. MEHTA, AGP for Petitioner

MR MD RANA for Respondent No. 1

CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 15/07/97

ORAL JUDGEMENT

1. Mr.Kamal M. Mehta, Assistant Government Pleader, appears for the petitioners and Mr. M. D. Rana appears for the respondent. The State of Gujarat and the Collector, Junagadh were aggrieved by the order of the Second Extra Assistant Judge, Junagadh in Regular Civil Appeal No.155 of 1989, whereby the suit of the plaintiff was decreed and it was declared that the termination of

services of the plaintiff as Kotwal with effect from 1976 by oral order was illegal, void and ultra vires. Further declaration was also granted to the effect that plaintiff continued to be in service as Kotwal since the date of his appointment, i.e. with effect from 30th March, 1967. Such judgment was rendered on 31st August, 1989, against which first appeal being Regular Civil Appeal No.155 of 1989 was preferred in the District Court, at Junagadh. In the said First Appeal, the present petitioners preferred application for stay of the judgment and decree passed by the Lower Court in which conditional order was granted to the effect that the original plaintiff should be reinstated in service without claiming any refund of amount after reinstatement. Against the aforesaid order passed by the learned Second Extra Assistant Judge, Junagadh, present Civil Revision Application No.849 of 1992 is preferred and His Lordship J.M. Panchal, J. by order dated 29th July, 1992, issued Rule nisi and granted ad-interim relief in terms of paragraph 2(b), so as to stay the execution and operation of the order passed by the learned Second Extra Assistant Judge, Junagadh, in Regular Civil Appeal No.155 of 1989. The said order has operated till date and is not vacated. The effect is that the original plaintiff (respondent herein)-Kalabhai Mangabhai Hati is not reinstated in service and is out of job.

2. Mr. M.D. Rana, learned counsel appearing for the respondent, has received the instruction from Mr. H.D. Rana, a practising Advocate at Junagadh that the first appeal, being Regular Civil Appeal No.155 of 1989, which was preferred in the District Court is allowed and, therefore, the petitioners have succeeded and the respondent has failed. At present, the respondent is out of job. In view of the aforesaid, the present Civil Revision Application, which is preferred by the State of Gujarat, is required to be allowed and the Rule issued by the Court is made absolute. Ad-interim relief which was granted by the learned single Judge is confirmed. There shall be no order as to costs.

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